



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Authorizing City Attorney to Execute Professional Services Agreement with NBS Government Finance Group, of Temecula, to Perform General Benefit Analysis of the City's Consolidated Landscape Maintenance District No. 2003-1 (\$16,224.85)

**MEETING DATE:** October 3, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution authorizing City Attorney to execute professional services agreement with NBS Government Finance Group, of Temecula, to perform a general benefit analysis of the City's Consolidated Landscape Maintenance District No. 2003-1 in the amount of \$16,224.85.


**BACKGROUND INFORMATION:** The City's Consolidated Landscape Maintenance District No. 2003-1 (District) was formed in 2003 to establish assessments that include ongoing maintenance and replacement of reverse frontage landscaping and irrigation, parkway trees, a prorated share of public park maintenance, and masonry sound walls. NBS Government Finance Group (NBS) has worked as the City's consultant preparing the District annual reports since 2005.

NBS currently prepares an Engineer's Report that establishes the annual assessment paid by property owners within the District to cover the cost of maintenance, operation and servicing the improvements. The method of apportionment is based on the premise that each of the assessed parcels with the District received special benefit from the improvements maintained and financed by District assessments.

Recent case law is challenging the current apportionment methodology (Golden Hills Neighborhood Association v City of San Diego). The "new" methodology includes a general benefits analysis to separate and quantify special benefits that only the maintenance districts receive versus a general benefit that not only the maintenance districts receive but also the general public may receive. Based on a preliminary review by staff, there are numerous zones within the District that benefit not only those within the zone but also the general public. NBS will provide analysis and numerical support for the breakdown of special versus general benefit in a report. The City will be able to use the report to determine the amount of the general benefit contribution and the amount of the budget that should be assessed for special benefit.

**FISCAL IMPACT:** The new method of apportionment will increase the burden on the Streets fund to cover those District costs that are benefiting the general public.

**FUNDING AVAILABLE:** Funding comes from the various assessment revenue accounts of the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 for the 2013/14 fiscal year.

  
Jordan Ayers  
Deputy City Manager/Internal Services Director

  
F. Wally Sandelin  
Public Works Director

Prepared by Chris Boyer, Assistant Engineer  
FWS/CB/pmf

**APPROVED:**   
Konradt Bartlam, City Manager

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **ARTICLE 1 PARTIES AND PURPOSE**

#### **Section 1.1 Parties**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY), and NBS GOVERNMENT FINANCE GROUP (hereinafter 'CONTRACTOR').

#### **Section 1.2 Purpose**

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for General Benefit Analysis Report (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

### **ARTICLE 2 SCOPE OF SERVICES**

#### **Section 2.1 Scope of Services**

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

#### **Section 2.2 Time For Commencement and Completion of Work**

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be

counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

### **Section 2.3 Meetinss**

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

### **Section 2.4 Staffing**

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

### **Section 2.5 Subcontracts**

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

### **Section 2.6 Term**

The term of this Agreement commences on October 10, 2012 and terminates upon the completion of the Scope of Services or on September 6, 2013, whichever occurs first.

## **ARTICLE 3** **COMPENSATION**

### **Section 3.1   Compensation**

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

### **Section 3.2   Method of Payment**

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

### **Section 3.3   Costs**

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

### **Section 3.4   Auditing**

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

**ARTICLE 4**  
**MISCELLANEOUS PROVISIONS**

**Section 4.1    Nondiscrimination**

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

**Section 4.2    ADA Compliance**

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

**Section 4.3    Indemnification and Responsibility for Damage**

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

**Section 4.4    No Personal Liability**

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

**Section 4.5    Responsibility of CITY**

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

**Section 4.6    Insurance Requirements for CONTRACTOR**

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

**Section 4.7 Successors and Assigns**

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

**Section 4.8 Notices**

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY:                      City of Lodi  
                                     221 West Pine Street  
                                     P.O. Box 3006  
                                     Lodi, CA 95241-1910  
                                     Attn: Wally Sandelin, Public Works Director

To CONTRACTOR:        NBS Government Finance Group  
                                     32605 Temecula Parkway, Suite 100  
                                     Temecula, CA 92592  
                                     Attn: Greg Davidson, Director

**Section 4.9 Cooperation of CITY**

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

**Section 4.10 CONTRACTOR is Not an Employee of CITY**

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

**Section 4.11 Termination**

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase.

Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

**Section 4.12 Confidentiality**

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

**Section 4.3 Jurisdiction in Settlement and Arbitration**

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

**Section 4.14 City Business License Requirement**

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

**Section 4.15 Captions**

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

**Section 4.16 Integration and Modification**

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

**Section 4.17 Contract Terms Prevail**

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

**Section 4.18 Severability**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**Section 4.19 Ownership of Documents**

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

**Section 4.20 Authority**

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

**Section 4.21 Federal Transit Funding Conditions**

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit apply to this contract. In the event of a conflict between the terms of this contract or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.



**IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.**

CITY OF LODI, a municipal corporation


ATTEST:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

\_\_\_\_\_  
D. STEPHEN SCHWABAUER  
City Attorney

APPROVED AS TO FORM:  
D. STEPHEN SCHWABAUER, City Attorney  
JANICE D. MAGDICH, Deputy City Attorney

CONTRACTOR:NBS

By: \_\_\_\_\_  


By: \_\_\_\_\_  
Name: Greg Davidson  
Title: Director

**Attachments:**  
**Exhibit A - Scope of Services**  
**Exhibit B - Fee Proposal**  
**Exhibit C - Insurance Requirements**

**Funding Source:** \_\_\_\_\_  
**(Business Unit & Account No.)**

Doc ID:WP\DEV\_SERV\LandscapeDistrict\NBS General Benefits Contract

CA:rev.01.2012



Aerial view of Lodi  
via Google Earth

*Proposal to Perform a*

**General Benefit Analysis for the  
17 Total Zones of the City's  
Consolidated Landscape Maintenance)  
District (LVID) No. 2003-1**

*for the*

**City of Lodi**

*July 5, 2012*





870 Market Street, Suite 1223  
San Francisco, CA 94102

Toll free: 800.434.8349

[nbsgov.com](http://nbsgov.com)

## COVER LETTER **AND** EXECUTIVE SUMMARY

July 5, 2012

D. Stephen Schwabauer  
City Attorney  
City of Lodi  
P.O. Box 3006  
Lodi, CA 95241

RE: NBS' ability to support the City of Lodi with a General Benefit Analysis for the 17 Total Zones (16 existing zones plus ■annexation zone) of the City's Consolidated Landscape Maintenance District (**LMD**) No. 2003-1

Dear Mr. Schwabauer and colleagues,

From our discussions, we understand that the City of Lodi is interested in a General Benefit Analysis for the 17 Total Zones (16 existing zones plus ■annexation zone) of the City's Consolidated Landscape Maintenance District (LMD) No. 2003-1,

NBS is a firm with over 15 years of history with directly applicable experience in property-related fees, special assessments and taxes, and we work closely with the legislative options available in California as well as limitations set by Propositions 218 and 26.

We purposefully are submitting this brief letter-format proposal but we are happy to provide further information as desired.

### ***How would NBS proceed?***

Nick Dayhoff, the City's assigned Financial Analyst, and myself, would dedicate time to understand your specific needs and quantify the data and parameters. We have included a sample scope to demonstrate our typical approach, but we would work with you to hone the final tasks and commensurate timeline. The goals are to identify areas of the Engineer's Report that can be strengthened and supported in accordance with Proposition 218 and recent case law. The report will provide analysis and numerical support for the breakdown of special vs. general benefit. The City will be able to use the report to determine the amount of the general benefit contribution and the amount of the budget that should be assessed for special benefit.

### ***What would be our first steps?***

We would provide a thorough review of the proposed improvements and maintenance services, budgets, location and type of improvements, analyze Proposition 218 special benefit, general benefit and recent case law to separate and quantify special vs. general benefit. Meet with City staff to develop a general benefit contribution and approach for Consolidated Landscape Maintenance District No. 2003-1. Provide staff with related support for the duration of the project.

**helping communities fund tomorrow**

***What is NBS' experience?***

As mentioned above, we at NBS have a wealth of experience with Special Financing Districts across California, which includes working through legal issues on fees, assessments and special taxes. As a quick primer on NBS, we are proud of our 15 year history of assisting cities, counties, and local government entities with specific consulting and analysis projects.

Please review this very brief statement, our comprehensive scope and additional information. We **would** appreciate the opportunity to work with you all on this effort. Please call me with any questions at 800.676.7516 or email at [gdaavidson@nbsgov.com](mailto:gdaavidson@nbsgov.com).

Sincerely,



Greg Davidson  
Director

## SCOPE OF SERVICES

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### General Benefit Analysis

Project Schedule. NBS will communicate with City staff, legal counsel and other interested parties to:

- Establish lines of communication.
- Clarify the specific project goals, components and criteria that will meet the City's preference.
- Develop project schedules to meet legal requirements and provide for effective interfacing of all involved parties.
- Establish meeting points consistent with schedule to achieve project milestones.
- Establish and coordinate with City staff a schedule to assure completion of necessary actions and compliance with statutes.

Special v. General Benefit Analysis. Review the proposed improvements and maintenance services, budgets, location and type of improvements, analyze Proposition 218 special benefit, general benefit and recent case law to separate and quantify special vs. general benefit. Meet with City staff to develop a general benefit contribution and approach for Consolidated Landscape Maintenance District No. 2003-1. Provide staff with related support for the duration of the project.

Support Determinations. Review the determinations made by the original Assessment Engineer, which shall include, but not be limited to the Method of Assessment and provide support for those determinations as information and research allows.

Exempt Parcels. Review all parcels that have been exempted from the annual assessment within the boundaries of the District and provide recommendations on how each of these parcels should be addressed in the future.

Findings and Recommendations Report. Prepare a report, summarizing our findings and recommendations. The main goal of the report is to identify areas of the Engineer's Report that can be strengthened and supported in accordance with Proposition 218 and recent case law. The report will provide analysis and numerical support for the breakdown of special vs. general benefit. The City will be able to use the report to determine the amount of the general benefit contribution and the amount of the budget that should be assessed for special benefit. Support for determinations made by the original assessment engineer will be provided as available. The identification of parcels exempt from the assessment will be identified and addressed.

### TIMELINE

DATE	DESCRIPTION
September 2012	Kickoff meeting to discuss timeline, goals and objectives
November 2, 2012	comment
November 16, 2012	City provides feedback on general benefit analysis. NBS incorporates any changes
November 30, 2012	NBS provides final general benefit analysis to the City

DATE	DESCRIPTION
March 2013	NBS implements findings of the general benefit analysis into the FY 2013/14 Engineer's Report
August 2013	NBS submits 2013/14 assessments and Resolution Ordering Levy and Collection of Assessments to San Joaquin County for placement on the County Tax Roll

## PROJECT TEAM

NBS is staffed with seasoned experts who are dedicated to providing our clients with the best possible results. The NBS staff of over 35 consultants and engineers has extensive experience in the fields of finance, management, engineering, and local governance and combine their knowledge to produce a synergy that results in maximum success and minimum risk.

### Professional Biographies

#### Greg Davidson, Client Services Director

Greg Davidson is a Director with NBS where he and his staff form and administer special financing districts, including Landscape Maintenance Districts, 1913 and 1915 Act Assessment Districts, **Mello-Roos** Community Facilities Districts, and Property-Based Business Improvement Districts. Greg is actively involved in managing the day-to-day district administration operations, the preparation of the annual special assessment levies, and related special projects. He ~~has~~ worked directly with more than 100 Agencies administering 300 Districts.

- **District Formation:** Greg has formed Special Financing Districts consisting of:
  - Business Improvement Districts
  - Community Facilities Districts (CFD, or Mello-Roos)
  - Landscape Maintenance Districts
- **District Administration:** Greg has over 13 years of experience in actively managing ongoing administration and annual levy calculations for 1913/1915 Act Assessment Districts, Landscape Maintenance Districts, **Mello-Roos** Community Facilities Districts, and Property-Based Business Improvement Districts. He has trained numerous staff, and has directly prepared levies for hundreds of Assessment and Special Tax Districts. ~~He~~ has also provided consulting services related to curing troubled districts which have involved judicial foreclosure, refinancing and property owner bond tender programs.
- **Financial Projects:** Greg has experience performing revenue audits, parcel audits, tax roll billing services and the formation of various Special Financing Districts.
- **Continuing Disclosure:** Greg has several years of experience in preparing and disseminating Municipal Disclosure Reports for numerous California Agencies. He currently is involved with the preparation and approval of more than 160 disclosure reports for 1915 Act, Community Facilities District, Tax Allocation and General Obligation Bonds.
- **1915 Reassessment and Refunding:** Greg has prepared several Reassessment Reports as required by the CA Streets and Highways Code ~~§9523~~, saving parcel owners a significant amount of money.
- **Proposition 218:** Greg provides Proposition 218 consulting services related to the establishment or increase of charges and assessments.

#### Pablo Perez, Project Manager

Pablo Perez is a Director with NBS where he and his staff form and administer various types of Special Financing Districts (SFD). He has over **19** years of experience, and is actively involved with district formations and bond issuance/refunding analysis as well as daily management of district administration operations. He also performs feasibility studies and related financial projects.

- **SFD projects:** Pablo has significant experience with many types of SFD's including: **1972** Act Maintenance Districts, Community Facilities Districts (CFD's), Standby and other Fees and Charges, **1915** and **1911** Act Assessment Districts, Business Improvement Districts (BID's), Benefit Assessment Districts (BAD's) and Public Safety Districts including Fire Assessments and Taxes. His involvement includes analysis of district finances as well as oversight of tasks such as audits of assessment liens, delinquency management activities, apportionment of liens, continuing disclosure, arbitrage rebate calculations, bond tenders, and district workouts.
- **Continuing Disclosure:** He has been responsible for the preparation and dissemination of disclosure reports for all types of municipal bonds for over a hundred public agencies.
- **Financial Projects:** Pablo has managed numerous projects relating to assessment and special tax districts, including apportionments of **1915** Act liens, tax roll billing services, continuing disclosure reports, arbitrage rebate calculations, human resources consulting, fund analysis and recommendations, bond tenders, conversion of bonds, delinquency management, and special project consulting.
- **Proposition 218:** Pablo provides Proposition **218** consulting services related to the establishment or increase of fees, charges and assessments. He is an acknowledged expert in Proposition 218 compliance programs which of particular significance was the City of La Habra Heights project. There were over **2,000** assessment ballots mailed, and the property owners voted to retain the annual assessment for street maintenance.
- **County Data Procurement:** Pablo is on a "first name basis" with many of the County assessor and auditor's staff in the State.
- Pablo has **22** years of experience in the private and public finance sectors, including 20 years specializing in the administration of special financing districts. Prior to working in public finance administration, he worked for a financial firm in New York.

#### Nick Dayhoff, Financial Analyst

Nick Dayhoff is a Financial Analyst at NBS, where he administers special financing districts, including **1913/1915** Act Assessment Districts, Mello-Ross Community Facilities Districts, Landscape and Lighting Districts, Benefit Assessment Districts, and Property Related Fees and Charges. Nick has experience in all aspects of special district administration, including continuing disclosure and delinquency management. He is actively involved in the daily administration of district administration operations.

- **District Administration:** Nick's administrative functions include calculation of annual levies, analysis of district finances, calculation of redemption of bonds from prepayments, apportionment of liens and annual report preparation. Nick deals with county agents including the Auditor Controller's Office, Treasurer Tax Collector, and County Assessor's Office. He understands county timetables and requirements for transmittal and processing of data critical to the successful administration of special districts. In addition, he is available to assist district property owners with questions or concerns and provide explanations of bond covenants and government code in a manner understandable to professionals and the layperson.
- **Special Projects:** In addition to the above listed responsibilities, Nick has experience in special projects, including Proposition **218** compliance and notification, district closeouts, assisting public agencies with the coordination of public hearings, assisting cities and districts with code compliance on several topics related to land-based financing, assistance with judicial foreclosure processes and pre-formation and pre-bond disclosure analysis.

- *Continuing Disclosure:* Nick has prepared and disseminated municipal disclosure reports for several California agencies. He prepared and disseminated ongoing disclosure reports for special financing districts including 1915 Act Assessment Districts, Community Facilities Districts, Revenue Bonds and Local Obligation Disclosure Reporting in compliance with Securities Exchange Commission regulation 15c2-12.

## FEES

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### General Benefit Analysis

Base Fee.....\$9,750 plus \$1,000 per zone

### Expenses

Customary out-of-pocket expenses will be billed to the City at actual cost to NBS. These expenses may include, but not be limited to travel, postage, telephone, reproduction, meals and various third-party charges for data, maps, and recording fees. Consultant's expenses will not exceed 10% of the total fee.

### Additional Services

The following table shows our current hourly rates. Additional services authorized by the City will be billed at this rate or the then applicable hourly rate.

Title	Hourly Rate
Director	\$190
Senior Consultant/Programmer	150
Engineer	140
Consultant	130
Analyst	100
Clerical/Support	55
Expert Witness	TBD; with minimum fee

### Terms

Services will be invoiced monthly until completion of the project. Expenses will be itemized and included in the next regular invoice. Fees for all other services will be invoiced upon completion of the task. If the project is prematurely terminated by either party, NBS shall receive payment for work completed. Payment shall be made within 30 days of submittal of an invoice. If payment is not received within 90 days simple interest will begin to accrue at the rate of 1.5% per month. Either party can cancel administration contracts with 30 days written notice.



CITY OF LODI  
1972 ACT DISTRICT ADMINISTRATION  
SPREAD OF ADMINISTRATION FEES AND EXPENSES  
GOOD THROUGH 9/30/13

District	Active Parcel Count	FY 2012113 Levy Amount	Base Fee Allocated Pro rata based on Levy Amount	Zone Fee Allocated Pro rata based on Levy Amount	Total Annual District Fee	Percentage	Expenses	Total Invoice
Consol 2003-1 Almondwood Estates	74	17,588.32	361.64		361.64	2.29%	10.23	371.87
Consol 2003-1 Century Meadows One	133	27,060.18	556.39	2,869.53	3,425.92	21.71%	96.90	3,522.82
Consol 2003-1 Millsbridge II	39	6,968.52	143.28	738.96	882.24	5.59%	24.95	907.19
Consol 2003-1 Almond North	28	6,743.00	138.64	715.05	853.69	5.41%	24.15	877.84
Consol 2003-1 Legacy I, Legacy II and Kirst Estates	223	46,334.94	952.70	4,913.48	5,866.18	37.18%	165.92	6,032.10
Consol 2003-1 The Villas	80	19,563.20	402.24	2,074.53	2,476.77	15.70%	70.05	2,546.82
Consol 2003-1 Woodlake Meadow	5	671.00	13.80	114.34	128.24	0.81%	3.62	131.76
Consol 2003-1 Vintage Oaks	17	6,336.58	130.29	671.95	802.24	5.08%	22.69	824.93
Consol 2003-1 Interlake Square	11	2,008.82	41.30	213.02	254.32	1.61%	7.19	261.51
Consol 2003-1 Lakeshore Properties	7	906.36	18.64	96.11	114.75	0.73%	3.25	118.00
Consol 2003-1 Tate Property	4	1,445.36	29.72	153.27	182.99	1.16%	5.18	188.17
Consol 2003-1 Winchester Woods	8	1,567.84	32.24	166.26	198.50	1.26%	5.61	204.11
Consol 2003-1 Guild Avenue Industrial	8	720.60	14.82	76.41	91.23	0.58%	2.58	93.81
Consol 2003-1 Luca Place	1	420.24	8.64	44.56	53.20	0.34%	1.51	54.71
Consol 2003-1 Guild Avenue industrial	4	579.18	11.91	61.42	73.33	0.46%	2.07	75.40
Consol 2003-1 West Kettleman Lane Commercial	2	105.96	2.18	11.25	13.43	0.09%	0.38	13.81
<b>Total</b>	<b>644</b>	<b>\$139,020.10</b>	<b>\$2,858.43</b>	<b>\$12,920.14</b>	<b>\$15,778.57</b>	<b>100.00%</b>	<b>\$446.28</b>	<b>\$16,224.85</b>
CPI at 10/01/06								
Original		2.5%	Fees at 10/01/06	CPI at 10/01/07	Fees at 9/20/08	CPI at 10/01/08	Fees at 9/01/09	
Base Fee	2,500.00	62.50	2,562.50	84.56	2,647.06	95.29	2,742.35	
Per Zone Fee	800.00	20.00	820.00	27.06	847.06	30.49	877.55	
Per Zone Fee for Zone 7	100.00	2.50	102.50	3.38	105.88	3.81	109.69	
Fees at 9/01/09 from above								
		CPI at 10/01/09	Fees at 10/01/10	CPI at 10/01/10	Fees at 10/01/11	CPI at 10/01/11	Fees at 10/01/12	
		0.1%		0.9%		3.2%		
Base Fee	2,742.35	2.74	2,745.09	24.71	2,769.80	88.63	2,858.43	
Per Zone Fee	877.55	0.88	878.43	7.91	886.34	28.36	914.70	
Per Zone Fee for Zone 7	109.69	0.11	109.80	0.99	110.79	3.55	114.34	

NOTE: per agreement, the 2012113 Zone fee is \$914.70 per Zone except Zone 1 (no Zone fee) and Zone 7 (\$114.34 per agreement). Annual Zone fee = Zones 2-16 (except Zone 7) = 14 zones x \$914.70 = \$12,805.80 + \$114.34 Zone 7 = \$12,920.14. Total annual Zone fee is spread among districts based on levy amount. Base fee is also allocated to all Zones, including Zone 1, pro rata based on levy amount.



**Insurance Requirements for Contractor** The Contractor shall take out and maintain during the life of this contract, insurance coverage as listed below. These insurance policies shall protect the Contractor and any subcontractor performing work covered by this contract from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Contractor's operations under this contract, whether such operations be by Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

- |  |  |
|--|--|
| <p>1. <b><u>COMPREHENSIVE GENERAL LIABILITY</u></b></p> <p style="padding-left: 20px;">\$1,000,000 Ea. Occurrence</p> <p style="padding-left: 20px;">\$2,000,000 Aggregate</p> | <p>2. <b><u>COMPREHENSIVE AUTOMOBILE LIABILITY</u></b></p> <p style="padding-left: 20px;">\$1,000,000 Bodily Injury - Ea. Person</p> <p style="padding-left: 20px;">\$1,000,000 Bodily Injury - Ea. Occurrence</p> <p style="padding-left: 20px;">\$1,000,000 Property Damage - Ea. Occurrence</p> |
| <p>3. <b><u>PROFESSIONAL ERRORS AND OMISSIONS</u></b></p> <p style="padding-left: 20px;">Not less than \$1,000,000 per Claim. Certificate of Insurance only required.</p>      |  |

NOTE: Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

**NOTE:** (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95241-1910; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

A copy of the certificate of insurance with the following endorsements shall be furnished to the City:

- (a) **Additional Named Insured Endorsement**  
Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees, and Volunteers as additional named insureds.  
  
(This endorsement shall be on a form furnished to the City and shall be included with Contractor's policies.)
- (b) **Primary Insurance Endorsement**  
Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.
- (c) **Severability of Interest Clause**  
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.
- (d) **Notice of Cancellation or Change in Coverage Endorsement**  
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 W. Pine St., Lodi, CA 95240.

**Compensation Insurance** The Contractor shall take out and maintain during the life of this contract, Worker's Compensation Insurance for all of Contractor's employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. . A waiver of subrogation is required for workers compensation insurance. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 W. Pine St., Lodi, CA 95240.

NOTE: No contract agreement will be signed nor will **any** work begin on a project until the proper insurance certificate is received by the City.

RESOLUTION NO. 2012-156

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING  
CITY ATTORNEY TO EXECUTE PROFESSIONAL SERVICES  
AGREEMENT FOR PERFORMANCE OF GENERAL BENEFIT  
ANALYSIS OF THE CITY'S CONSOLIDATED LANDSCAPE  
MAINTENANCE DISTRICT NO. 2003-1

WHEREAS, the City's Landscape Maintenance District (LMD) was formed in 2003 to establish assessments that include ongoing maintenance and replacement of reverse frontage landscaping and irrigation, parkway trees, a prorated share of public park maintenance, and masonry sound walls; and

WHEREAS, NBS Government Finance Group has worked as the City's consultant since 2005, performing an annual assessment that covers a portion of the estimated costs of maintenance, operation, and servicing of the improvements that is paid by the property owners within the districts; and

WHEREAS, the improvements are said to be special benefits received by the property owners within the districts in accordance with Proposition 218 and, as such, they pay for the maintenance of these benefits; however, recent case law has found the methodology used to create the LMD is flawed; and

WHEREAS, the City is now required to perform a general benefits analysis to separate and quantify special benefits that only the maintenance districts receive versus a general benefit that not only the maintenance districts receive but also the general public may receive; and

WHEREAS, staff recommends executing a professional services agreement with NBS Government Finance Group, of Temecula, California, to provide analysis and numerical support for the breakdown of special versus general benefit in a report.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Attorney to execute a professional services agreement with NBS Government Finance Group, of Temecula, California, to perform a general benefit analysis of the City's Consolidated Landscape Maintenance District No. 2003-1 in the amount of \$16,224.85.

Dated: October 3, 2012

I hereby certify that Resolution No. 2012-156 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 3, 2012, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, Nakanishi, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk